



**STATEMENT FOR THE RECORD**

**MILITARY OFFICERS ASSOCIATION OF AMERICA**

**on**

**“Veterans Appeals Improvement and Modernization Act of 2017”**

**Draft legislation**

**115<sup>th</sup> Congress**

**HOUSE COMMITTEE on VETERANS AFFAIRS**

**May 2, 2017**

**CHAIRMAN ROE, RANKING MEMBER WALZ,** and Members of the Committee, the Military Officers Association of America (MOAA) is pleased to present its views on legislation under consideration by the Committee, “Veterans Appeals Improvement and Modernization Act of 2017.”

MOAA does not receive any grants or contracts from the federal government.

### **EXECUTIVE SUMMARY**

On behalf of our more than 350,000 members, MOAA thanks the Committee for holding this important hearing and for your continued support of our nation’s veterans and their families. MOAA is especially grateful for the Committee’s leadership in seeking views from a variety of stakeholders relevant to the VA appeals modernization.

Initially, it is clear this legislation takes into consideration the comments and concerns of not only the veteran service organization community but also various other groups. MOAA is very appreciative to Representative Bost for these efforts.

MOAA supports the legislation with the following recommendations:

- Allow direct submissions of additional evidence to the Board of Veterans’ Appeals on the “non-hearing option docket”
- Regarding reference to the three veterans service organizations with the most members, the qualifying factor should be changed from the most members to the veterans service organizations that file the most claims on behalf of claimants.
- The Board docket appeals processed under the Fully Developed Appeals program should be entered into the “non-hearing option docket.”

### **VA Appeals Reform**

MOAA supports efforts by Congress and the Department of Veterans Affairs to modernize the claims process, including appeals. The procedural basis set forth in this legislation will eliminate outdated aspects of the existing claims process, such as the Statement of the Case and the VA Form 9. Those additional bureaucratic hurdles made the claims process confusing, unnecessarily long, and extremely inefficient. MOAA greatly appreciates the efforts of this Committee in hosting roundtable discussions, hearings, and introducing legislation to address this outdated system.

## **Board of Veterans' Appeals Dockets**

This bill sets forth that the Board of Veterans' Appeals shall maintain two dockets, one for claimants requesting a hearing before the Board and the other for claimants not requesting a hearing before the Board.

MOAA supports allowing claimants the opportunity to submit evidence to the Board directly. This allows claimants with legally complex claims to have a Veterans Law Judge consider that evidence in conjunction with the questions of law instead of cycling through the Agency of Original Jurisdiction (AOJ), where the AOJ may lack the legal acumen to adequately resolve the claim.

MOAA recommends the legislation be modified to provide that claimants submitting evidence directly to the Board be placed on the "non-hearing docket." This is the closest docket fit to their circumstances because the claimant is not requesting a hearing. Further, regardless of whether a claimant's appeal includes additional evidence or not, the Veterans Law Judge will be required to review evidence within the record. In other words, if a claimant merely appeals without submitting additional evidence, the Board must still review all existing evidence in the record. Thus, the choice not to submit additional evidence does not prevent the Board from having to review evidence.

We do not recommend the other option of placing these appeals on the "hearing docket," as this would disproportionately disadvantage the claimant. During roundtable discussions leading up to appeals reform legislative proposals, VA officials stated that the "hearing docket" would be much slower than the "non-hearing docket." It is unjust to force claimants not requesting hearings to wait behind those requesting hearings for the Board to address their appeals where it does not require any additional work of the Veterans Law Judge to consider the additional evidence.

VA has expressed concerns that including claimants with additional evidence amongst those without additional evidence on the same docket would confuse the "feedback loop," but we believe this is manageable. The feedback loop permits the Board to provide input to the AOJ regarding errors the AOJ committed in the original adjudication of the claim. There appears to be no reason, however, that the Board could not simply exclude the claims with additional evidence from the feedback loop and still provide very useful feedback to the AOJ from the remaining claims.

## **Collaboration with Veterans Service Organizations**

MOAA greatly appreciates that the legislation includes mandates for VA to collaborate with and give weight to the inputs of veterans service organizations. MOAA recommends, however, that references to "the three veterans service organizations with the most members" be modified to "the three veterans service organizations that file the most claims on behalf of claimants." Veterans service organizations serve many functions in the veteran community, not exclusively confined to filing VA benefits claims. Merely because a veterans service organization has a

large number of members does not necessarily mean the organization is intimately familiar with the VA claims process. A more reliable gauge of a veterans service organization's value to the process is the number of VA claims filed by the organization. The Veterans Benefits Administration already tracks the number of claims filed by each veterans service organization, making this information readily available to VA.

### **Fully Developed Appeals**

MOAA supports granting the Secretary the authority to carry out a fully developed appeals program. A fully developed appeal option would allow a claimant to expedite a claim to the Board with all evidence needed for the appeal. This goal is consistent with the overall intent of VA appeals modernization.

This process would also be almost identical to the process for a claimant participating in the modernized appeals process who chooses to submit additional evidence for the Board's consideration. For that reason, MOAA recommends that appeals processed using this option be docketed in the "non-hearing option." This would prevent the need for the Board to maintain a third docket, as the legislation currently contemplates. A third docket with varying processing rules would be very confusing to claimants in understanding whether their claim is being handled properly.

MOAA thanks the Committee for considering this important legislation and for your continued support of our veterans and their families.